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MEXICO

[21 July 1992]

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I. LAND AND PEOPLE

1. According to the results of the eleventh general population and housing census, the population of Mexico is 81,140,922, 49.1 per cent of whom are male and 50.9 per cent female. On the basis of these figures, the population density is 41.25 inhabitants per km^2.

2. Males aged under 15 account for 19.4 per cent of the population and females 18.9 per cent i.e. 38.3 per cent of the total. The male population aged over 65 represents 1.9 per cent and the female population 2.3 per cent, i.e. only 4.2 per cent of the total. The rest of the population, i.e. 57.5 per cent, is aged between 16 and 64.

3. The population growth rate declined gradually from 3.2 per cent in the period between 1950 and 1970 to 2.6 per cent in the last two decades, 1970-1990. It is expected that this downward trend will continue and that, by the last five years of the century, population growth will have dropped to 1.8 per cent. Consequently, it is estimated that, in the year 2000, Mexico's population will be slightly over 100 million.

4. In 1950, the life expectancy of a newborn Mexican was, given prevailing health conditions, 47 years. Nowadays, thanks to the benefits of the country's development, the generation of Mexicans born in 1990 may expect to live for approximately 70 years, 23 more than in 1950.

5. Both the crude death rate and infant and maternal mortality have declined and show a steady downward trend. According to the Ministry of Health, mortality levels have declined significantly as a result of Mexico's development. Infant mortality is a highly sensitive indicator and is closely linked to socio-economic factors. The infant mortality rate is 25 below the age of one year per thousand live births. The maternal mortality rate has fallen steadily. In the 1980s, it was below 10 per 10,000 live births. In 1980, the percentage was 9.5 and, by 1987, it had fallen to 5.5. The main causes of maternal mortality are: complications during labour, complications during pregnancy, abortion and complications during normal childbirth.

6. The fertility rate, based on the total number of children born live to women aged over 12, was an average of 2.5 children per woman in 1990.

7. The urban population is 57,959,791. The country has 2,586 towns which have 2,500 inhabitants or more and which make up only 1.7 per cent of the total number of towns, but which account for 71.3 per cent of the population. Mexico's main cities are Mexico City, with a population of 17 million; Guadalajara with 3.8 million; and Monterrey with 3.1 million. Almost one third of Mexico's population lives in these cities. The 1990 census also identified 154,016 rural towns with fewer than 2,500 inhabitants, representing 98.3 per cent of the total number of towns and only 28.7 per cent of the population or 23,289,924 persons.

8. The economically active population is composed of 24,063,283 persons aged 12 and over, i.e. 43 per cent of that age group. Mexico's labour force has been increasing at an average annual rate of 1.6 per cent. The primary sector occupies 22.6 per cent of the employed population, the secondary

sector 27.9 per cent and the tertiary sector 46.1 per cent. The predominance of young people in the population pyramid is reflected in the structure of the labour force.

9. According to the 1990 census, employment increased slightly in comparison with 1970, from 96.2 per cent to 97.3 per cent. The annual unemployment rate was 2.8 per cent and, until the first half of 1991, 2.5 per cent. Unemployment was higher among women than among men, the percentages being 2.9 per cent and 2.5 per cent.

10. In 1989 and for the third consecutive year, Mexico's economy showed an increase in production. Gross domestic product (GDP) rose by 3.9 per cent in 1990 to a total of 5,236.3 billion pesos. In 1991, GDP increased by 3.6 per cent. In addition, per capita income rose by 2 per cent over 1990, to approximately $2,500 per year.

11. Despite Mexico's efforts, inflation remained high throughout the 1980s, reaching 159 per cent in 1987. In December 1987, the Government introduced the economic solidarity agreement (now called the stability and economic growth agreement) which combines restrictive and monetarist policies, the liberalization of trade and a price and wage agreement between the Government, workers and entrepreneurs and reduced inflation to 29.9 per cent in 1990 and to 19.9 per cent in 1991.

12. There was a change in development financing. Mexico contracted less external debt and obtained better terms from its international creditors for the existing debt. As a result, external debt fell from $107.5 billion in December 1987 to $67.5 billion on 31 December 1991.

13. One of the main elements of the strategy to bring about and consolidate the structural change in the economy was the renegotiation of the external debt, which was completed on 4 February 1990. The agreement made it possible to reduce the transfer of resources abroad, considerably to improve public finances and the balance of payments and to encourage productive investment and domestic saving. It also led to a favourable change in the conduct of the participants in the country's economic and financial activity.

14. According to the 1990 census, 87.1 per cent of the Mexican population between the ages of 6 and 14 is literate; if children aged under 8 are excluded, the figure is over 90 per cent. Literacy rates for the two sexes are similar, although they are slightly higher for women than for men. Since 1970, illiteracy has declined considerably in Mexico. In 1970, the illiteracy rate was 25.8 per cent, as against 12.4 per cent in 1990 (9.6 per cent of men and 15 per cent of women).

15. The official language in Mexico is Spanish. However, the 1990 census showed that 7.5 per cent of the population aged over five spoke an indigenous language. Of this figure, 80.2 per cent also speak Spanish and only 15.8 per cent are monolingual. The predominant indigenous language is Nahuatl (22.7 per cent), followed by Maya (13.5 per cent), Mixtec (7.3 per cent), Zapotec (7.2 per cent) and Otomi (5.3 per cent). The rest of the more than 40 other indigenous languages spoken in Mexico account for fewer than 5 per cent.

16. As far as religion is concerned, the results of the 1990 census show that the majority of Mexico's population is Catholic, which is the religion indicated by 89.7 per cent of respondents; 4.9 per cent said that they are Protestant, while 1.5 per cent have other religions, including Judaism, and 3.9 per cent said that they had no religion or did not say which one. Differences between the sexes in respect of religion are slight: 89.3 per cent of men and 90 per cent of women are Catholic; 4.7 per cent of men and 5.1 per cent of women are Protestant; and 1.5 per cent of men and 1.6 per cent of women are Jewish or have other religions.

II. GENERAL POLITICAL STRUCTURE

17. The Constitution of the United Mexican States provides that the country is a representative, democratic and federal republic composed of 31 states and a Federal District where the Federal Government is located. Power is exercised through the legislative, executive and judicial branches.

18. The President of the Republic heads the executive branch of government and is elected by direct popular suffrage for a non-renewable six-year term. For the performance of administrative functions, the executive branch has 17 ministries.

19. Legislative power is vested in the Congress, which is divided into two chambers. The Chamber of Deputies has 500 members who are elected for a three-year term and may not be elected for two consecutive terms. The Senate has 64 members, two for each state and the federal district. Senators are elected for a six-year period and may not be elected for two consecutive terms.

20. The 21-member Supreme Court heads the judicial branch of government.

21. The 31 states that make up the Republic are free, sovereign and autonomous. Each one has its own constitution and the same division of power as the national Government. The states are divided into municipalities, which are governed by municipal councils. Mexico City is governed by the Head of the Federal District Department, who is appointed by the President, and has an Assembly of Representatives with 66 members elected by direct suffrage.

22. Mexico has a wide range of political parties that reflect the different ideologies in the country. They are all legally registered and have to obtain at least 1.5 per cent of the total number of votes in order to continue to be registered. At present, six political parties are fully registered in Mexico: the Partido Revolucionario Institucional (PRI), the Partido Acción Nacional (PAN), the Partido Popular Socialista (PPS), the Partido Auténtico de la Revolución Mexicana (PARM), the Partido del Frente Cardenista de Reconstrucción Nacional (PFCRN) and the Partido de la Revolución Democrática (PRD). In recent years, the following parties have been established and registered conditionally because they have not obtained at least 1.5 per cent of the national vote in the elections in which they took part: the Partido Revolucionario de los Trabajadores, the Partido del Trabajo, the Partido Verde Ecologista Mexicano and the Partido Demócrata Mexicano.

Historical overview

23. The territory of what is now Mexico has been inhabited for at least 11,000 years. Centuries ago, it was part of the region known as Mesoamerica, where major civilizations such as the Olmec, Maya, Zapotec and Aztec, developed as from the third century A.D.

24. The colonial period began with the Spanish conquest, which started in early 1519 with the explorations carried out by Hernán Cortés and the establishment of Villa Rica de la Vera Cruz, the first European settlement in Mexico. Physical conquest was followed by spiritual conquest and the religious conversion to Christianity meant combating the age-old polytheistic beliefs of the indigenous civilizations.

25. The viceroyalty was founded when Antonio de Mendoza, the first representative of the Spanish monarch, was sent to Mexico in 1535. When the Bourbons acceded to the Spanish throne, a new territorial and administrative division of intendancies and mayoralties, was introduced for the purpose of bringing the viceroyalty under tighter control, but it also helped to increase unrest.

26. In the first few years of the nineteenth century, Napoleon's invasion of Spain encouraged the start of the struggle for independence. Once the struggle for political independence began, demands for social change were also made. After 10 years of fighting, independence was achieved only as a result of the agreement between Creoles and insurgents brought about in 1821 by Agustín de Iturbide, who proclaimed himself emperor one year later and was then overthrown by a military revolt in 1823.

27. The Republic was founded in January 1824. The federalist Constitution was promulgated in October and Guadalupe Victoria became President of Mexico. The decades to come were nevertheless a time of political infighting among the different factions. The federalists and liberals on one side and the centralists and conservatives on the other took power in a succession of coups d'état, thus preventing any overall Government policy from being fully implemented. This domestic situation, which was typical of a State in the making, was aggravated by foreign aggression: attempted reconquest, loss of territory, European intervention and invasion by the United States.

28. Domestic unrest was accompanied by the Indian war in Yucatán in 1847. However, the bloodiest civil war Mexico experienced following its independence was the Reform, which lasted three years and affected the entire country. It was the culmination of the fight between the conservatives and the liberals. War broke out with the promulgation of the 1857 Constitution, which provided implicitly for freedom of worship and empowered the Government to enact legislation relating to religion. In 1860, the liberals came out the winners, but the conservatives stayed on a war footing and gave their support to French intervention to establish an empire under Maximilian of Habsburg.

29. In 1863, the French army occupied the country's capital, where Maximilian founded the Second Empire in 1864 with the support of Napoleon III. Neither the empire nor the invaders ever successfully completed their occupation of the national territory and, in 1866, the withdrawal of the invading troops was

immediately followed by the defeat of the imperial forces and the capture and execution by a firing squad of Maximilian and the conservative generals Miramón and Mejía in July 1867.

30. With the triumph of the Republic, the country was consolidated as a nation and entered a period of stability with the implementation of the liberal programme. In 1876, Porfirio Díaz became president by means of a coup d'état and held power, except for the period between 1880 and 1884, until 1911. During this time, the country's economy grew considerably, but huge estates and enormous dispossessed rural masses also came into being.

31. Díaz's long period in power, the absence of democracy and the exploitation and impoverishment of large sectors of rural and urban society gave rise to considerable popular unrest which ended in the world's first social revolution this century. Díaz stepped down in 1911 and left the country. The acting president, Francisco León de la Barra, called elections that were won by Madero, who took office on 6 November 1911.

32. The Madero regime's foundations were undermined by various plots and he was assassinated in 1913. After the military coup, Victoriano Huerta took over the office of president. The revolutionary leaders who had collaborated in the overthrow of Porfirio Díaz again took up arms and set in motion a movement of unprecedented proportions.

33. The leader of the Constitutionalist Army, Venustiano Carranza, undertook to pacify the country. The that end, he convened a constituent congress which drafted and promulgated the new Constitution on 5 February 1917. The Constitution contained what were then pioneering social measures and provided a framework for action by the Governments that came after Carranza's.

34. In 1929, Plutarco Elías Calles proposed that a political body should be set up to centralize all political initiatives by military and civilian leaders and make it possible to consolidate peace and usher in a period of national reconciliation. The proposal led to the establishment of the Partido Nacional Revolucionario, which became the Partido de la Revolucíon Mexicana in 1938 and the Partido Revolucionario Institucional in 1946.

35. There were nine Governments in the period that followed. Lázaro Cárdenas (1934-1940) ordered the expropriation of the petroleum industry for the benefit of the nation; he also encouraged the establishment of worker and peasant groups which are still pillars of popular support for the Government.

36. President Manuel Avila Camacho (1940-1946) adopted a policy of national unity and rejection of national socialism which led to the declaration of war on the Axis powers during the Second World War.

37. The Government of Miguel Alemán Valdés (1946-1952) intensified the process of industrialization and the building of the infrastructure needed to modernize the country. Adolfo Ruíz Cortines (1952-1958) resolutely pursued the same policy and one of his Government's main achievements was its recognition of the right of women to vote.

38. Under the administration of Adolfo López Mateos (1958-1964), the electric power industry was nationalized and an outward-looking foreign policy was adopted to establish closer links with all the countries in the world.

39. Under Gustavo Díaz Ordaz (1964-1970), the construction of a highly developed communications and transport network continued and private enterprise was given every encouragement.

40. The "shared development" model was introduced during the term of office of Luis Echeverría Alvarez (1970-1976). The period was also characterized by intense international activity in connection with foreign policy.

41. The discovery and exploitation of major oilfields enabled President José Lòpez Portillo (1976-1982) to develop the Mexican economy. The subsequent drop in energy prices and the resulting world crisis also affected Mexico and brought about a sharp increase in its external debt.

42. Consequently, President Miguel de la Madrid (1982-1988) introduced an austerity plan to tackle economic problems through the Short-Term Economic Restructuring Programme and the National Development Plan. Other serious problems, such as the aftermath of the 1985 earthquakes, also had to be dealt with. However, there was no uncontrollable social unrest; the new mechanisms set up by the Government and the political reforms it brought about allowed for greater pluralism.

43. Carlos Salinas de Gortari became President in 1988 with a political platform aimed at modernizing the country and fully integrating it into the new international setting, both economically and politically. The programme hinges on the implementation of a modern policy, the decentralization of Mexican society and the liberalization of the economy to make the country more competitive. Three years into the programme, it is clear that major strides have been made in the economic sphere now that inflation has been checked and measures have been taken to boost non-petroleum exports. Enormous efforts have also been made to open up new markets and obtain better international terms for products of developing countries.

44. Mexico's foreign policy is based on principles which are rooted in its history and reflected in the provisions of its Constitution: self-determination of peoples, non-intervention, peaceful settlement of disputes, legal equality of states, international cooperation, prohibition of the threat or use of force and action to achieve world peace and security.

45. Mexico's international practice also includes other principles, which are shared by the overwhelming majority of nations and which are essential for the smooth functioning of relations among the members of the international community: sovereignty over natural resources, the right of asylum, international economic justice, the protection of human rights, respect for ideological pluralism, a democratic approach to decision-making in the international community and Latin American solidarity.

46. On the basis of these principles and precepts, Mexico has endeavoured to maintain good relations with all countries in the world. Its present foreign policy is characterized by its clear-cut objective of diversification to enable it to establish closer ties with all parts of the world, without restricting itself to any one of them and without any exclusive commitment to any bloc or common market. The aim of this international policy is to promote Mexico's interests throughout the world and to glean elements from other countries which Mexicans regard as important for playing an active role in the modern-day international community.

47. Mexico has thus established closer ties with Latin America, North America and the countries of Europe with which it has a common culture and traditions. It has also tried to establish closer relations with the Pacific region and the rest of Europe. In addition, it has appointed two roving ambassadors, one for Africa and one for the Caribbean, who will take part in the work of creating links with these two important regions.

III. GENERAL LEGAL FRAMWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

A. Judicial and administrative authorities with jurisdiction affecting human rights

48. The federal judiciary is composed of the Supreme Court of Justice, the collegiate and unipersonal circuit courts, the district courts, the Office of the Attorney-General of the Republic, the Office of the Government Procurator of the Federal District, the Office of the Government Procurator of the States of the Republic and the Public Prosecutor's Office.

49. The National Human Rights Commission (CNDH) is the main administrative body responsible for proposing and ensuring compliance with the national policy of respect for and the protection of human rights. To this end, it implements preventive, remedial and coordination measures to safeguard the human rights of Mexicans and of foreigners in Mexican territory; in the latter case, it acts in coordination with the Ministry of Foreign Affairs.

B. Remedies available to an individual who claims that any of his rights have been violated and systems of compensation and rehabilitation

50. The Constitution of the United Mexican States protects all human rights (individual guarantees) and the legislation regulating the relevant articles guarantees such protection. The legislation also offers a variety of remedies and procedures to ensure full protection of human rights.

51. If an individual alleges that his human rights have been violated, he must appeal to the appropriate authority for the appropriate remedies: in criminal cases, the appropriate remedies are reconsideration, complaint for refusal of leave to appeal and amparo; and in civil cases, reconsideration, appeal, special appeal, complaint, judicial liability and amparo. The complainant may also appeal to CNDH, which will provide him with advice on the legal measures available to him and on how to use them or, if all legal remedies have been exhausted, it will investigate the case and make a recommendation.

52. When the investigation leads to the identification of the offender, compensation may be claimed. For example, article 10 of the Federal Act for the Prevention and Punishment of Torture reads:

> "A person who commits any of the offences covered by this Act shall be liable for the legal, medical, funeral, rehabilitation and any other expenses incurred by the victim or his relatives as a result of the offence. He shall also be required to make good the damage and to provide compensation for the loss or injury suffered by the victim or his economic dependents, in the following cases:

I. Loss of life;

II. Impairment of health;

III. Loss of freedom;

IV. Loss of income;

V. Incapacity for work;

VI. Loss of or damage to property;

VII. Defamation of character.

In determining the corresponding amounts, the judge shall take account of the extent of the damage.

Under article 32, section VI, of the Penal Code for the Federal District in respect of ordinary law and for the Republic as a whole in respect of federal law, the State shall bear subsidiary liability for making good the damage."

C. Protection of the rights referred to in the various human rights instruments

53. Human rights are protected by articles 1 to 29 of the Constitution, from which derogation is possible in the event of invasion or serious disturbance of public order or for any other reason that places society in grave danger or at risk of conflict. Only the President of the United Mexican States may, with the agreement of the Ministers of State, the Administrative Departments and the Office of the Attorney-General of the Republic and with the approval of Congress or, if Congress is not in session, that of the Standing Committee, suspend, either throughout the country or in a particular place, the guarantees that are an obstacle to the prompt and smooth handling of the situation, but he may do so only for a limited time and by means of general measures so that the suspension does not affect a particular individual.

D. Way in which human rights instruments are made part of the national legal system

54. Article 133 of the Constitution states that all treaties which are in keeping with the Constitution and which have been or may be concluded by the President of the Republic with the approval of the Senate are the supreme law of the Union.

E. Can the provisions of the human rights instruments be invoked before, or directly enforced by, the courts or administrative authorities, or must they be transformed into internal laws or administrative regulations in order to be enforced by the authorities concerned?

55. In line with the answer given in the preceding paragraph, human rights instruments become part of internal law as soon as they have been ratified by the Senate. The courts of each state will rule on the basis of the

Constitution, laws and treaties, notwithstanding any provisions to the contrary that may exist in state Constitutions or laws.

F. Institutions or national machinery with responsibility for overseeing the implementation of human rights

56. The National Human Rights Commission, which was set up in June 1990, is the institution responsible for overseeing the implementation of human rights throughout the country.

IV. INFORMATION AND PUBLICITY

57. The Government of Mexico has made efforts to inform the population of the rights contained in the various human rights instruments. CNDH has published documents, some in indigenous languages, to promote respect for human rights as part of its programmes relating to: complaints, indigenous affairs, the prison system and the protection of children and migrant workers.

58. In Mexico's education system, primary schools use a free textbook issued by the National Technical Council on Education. During its fourth semester of activity, the National Human Rights Commission transmitted a document to the Council entitled "Human rights in the free textbook: a proposal". The Council is contributing to the "ongoing project to enhance civic awareness in primary schools".

59. During that semester, 142 human rights training courses were provided, with a total of 543 course/hours for 19,461 participants, an increase of 317 per cent over the previous semester. The courses were attended by persons from various social sectors and by federal, State and municipal officials. Two video training tapes were produced on research techniques and "Human rights and the National Human Rights Commission". The second tape, which lasts 18 minutes, is broadcast daily on television throughout the country.

60. During the semester, the National Commission also organized five symposiums and seminars and two diploma courses with academic establishments, as well as the first series of films on Mexican prisons. It continued to place great emphasis on its publications programme, which includes the Sunday supplement to the El Nacional newspaper, weekly Radio Educación and Radio Universidad Nacional Autónoma de México coproductions and, in particular, the publication of 51 new works, 1,170,000 copies of which were distributed.

61. Generally speaking, CNDH successfully carried out 95 per cent of its publications programmes and, in some cases, went beyond the targets set.

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Core document on Romania drawn up in accordance with General Assembly resolution 45/85 and the Consolidated guidelines for the initial part of the reports of States parties (document HRI/1991/1)

I. LAND AND PEOPLE

1. Romania a country situated in central Europe, with a land area of 237,500 km^2 and a population of 22,760,449 inhabitants (according to the preliminary results of the census taken on 7 January 1992) has common frontiers with the Republic of Moldova, Ukraine, Hungary, the Federal Republic of Yugoslavia and Bulgaria. The country has a continental climate and a landscape of surprising diversity, from Alpine peaks to the beaches of the Black Sea and the Danube.

2. While nature has been generous to Romanians, history has dealt rather harshly with this country. Living for centuries at the crossroads of the migrations of peoples, then at the intersection of the interests of three great empires, the Romanian people have not been able to develop fully the material and human resources at their disposal.

3. After 45 years of communism and foreign political and economic domination, the main economic indicators and the statistical data for the year 1991 are as follows:

Per capita income	lei 44,987 (provisional data)
Gross national product	lei 2,065 billion (provisional data) (US$ 25.77 billion)
Per capita GNP	US$ 1,132 (provisional data calculated by the National Statistical Commission)
Inflation rate: monthly average	10.3 per cent
Foreign debt	US$ 1,121 million (medium- and long-term debts)
Unemployment rate	3.0 per cent
Literacy rate	95 per cent
Religion (per capita)	Preliminary data taken from the census of 7 January 1992
Orthodox	86.8 per cent
Catholic	5.0 per cent
Protestant	3.5 per cent
Uniate	1.0 per cent
Other religions	4.5 per cent
No religion	0.2 per cent

Structure of the population by mother tongue	Provisional data taken from the census of 7 January 1992
Romanian	89.4 per cent
Hungarian	7.1 per cent
German	0.5 per cent
Other languages	3.0 per cent
Life expectancy	
Men	66.6 years
Women	72.7 years
Infant mortality rate	22.7 per 1,000 births of children under one year old
Maternal mortality rate	0.66 per 1,000 births
Fertility rate	48.7 per 1,000 births for women of 15-49 years old
Percentage of the entire population under 15 years old and over 65 years old	33.7 per cent
Urban population	54.4 per cent (provisional data taken from the census of 7 January 1992)
Rural population	45.6 per cent (provisional data from the census of 7 January 1992)
Percentage of women who are heads of households	8.0 per cent

II. GENERAL POLITICAL STRUCTURE

A. Historical background

4. In 106 AD, after the second Dacian war, the Emperor Trajan succeeded in conquering Dacia which he organized as the province of Dacia. He paid special attention to the new province; sending troops to colonize it on a large scale.

5. In 271 AD, the Emperor Aurelian withdrew his army as well as the administration from the Province of Dacia under the pressure of the migratory peoples. After the intensive Romanization process, a stable Dacian-Roman population remained.

6. The period from the third to the ninth centuries saw large migratory movements which had a major political and ethnic impact on the Carpathian-Danubian-Pontic area. By the end of this period, the formation of the Romanian people was complete.

7. Between the ninth and thirteenth centuries, the Hungarian tribes penetrated central Europe, the kingdom of the Hungarians was set up and Transylvania was gradually conquered from the north-east to the south-east following protracted conflicts with the Romanian political groupings.

8. The fourteenth century saw the formation of the feudal Romanian States of Walachia and Moldavia east and the south of the Carpathians. This process was the result of the unification of previously existing groups of States. The first conflicts occurred between Romanians and Ottomans.

9. In the fifteenth and sixteenth centuries, major military conflicts occurred between Romanians and the Ottomans and the suzerainty of the Ottoman empire was finally accepted, in exchange for the internal autonomy of the Romanian States.

10. Between 1600 and 1601 the first political union of the Romanian States was formed under Michael the Brave and the common anti-Ottoman front was organized.

11. During the eighteenth century, the Romanian principalities were the theatre of the wars between Russians, Austrians and Turks. In 1775 the northern part of Bukovina was annexed by the Hapsburg Empire acting as mediator for peace between Russia and Turkey, following the 1768-1774 war.

12. In 1812, there was another flagrant violation of the autonomous status of the Romanian States. After the Russo-Turkish War of 1806-1812, which ended in the defeat of the Sublime Porte, the Tsarist Empire proceeded to annex the territory located between the Prut and Dnestr (Bessarabia), which was an integral part of the autonomous principality of Moldavia.

13. In 1848, the Ottoman and Russian armies crushed the revolution for national liberation.

14. In 1859, Moldavia and Walachia was united under Prince Alexander Ion Cuza.

15. Between 1859 and 1866 the united principalities were unified administratively and legislatively and organized on a modern basis.

16. In 1866, Prince Carol I of Hohenzollern was crowned and the first Constitution of modern Romania adopted. This Constitution established the principle of separation of the powers of the State.

17. In 1877 and 1878, Romania took part in the Russo-Turkish war. It proclaimed its independence, which was recognized by the Congress of Berlin in 1878. The territory of Dobruja situated between the Danube and the Black Sea was ceded to Romania.

18. On 10 May 1881, the Kingdom of Romania was proclaimed.

19. In 1916, Romania entered the First World War on the side of the Entente Powers.

20. In 1918, following the exercise of the right to self-determination by the majority of the population of the Romanian provinces (Transylvania, Banat, northern Bukovina and Bessarabia) the formation of the national unitarian Romanian State was completed by means of the freely expressed will of the representative assemblies.

21. 1919-1920: The Paris Peace Conference endorsed the new political and territorial situation in central and eastern Europe also including the formation of the national and unitary Romanian State, following the Romanian people's exercise of their right to self-determination, and of their territory (Treaty of Trianon).

22. In 1923, the new Constitution of Romania was adopted.

23. In June 1940, following an ultimatum issued by the USSR, on the basis of the Molotov-Ribbentrop Pact, and that country's threats to resort to the use of force, Romania was compelled to evacuate Basserabia and northern Bukovina, which were occupied by the USSR.

24. In the same year, Romania was forced to cede to Bulgaria southern Dobruja, an area which had reverted to Romania in 1913.

25. In August 1940, after the Vienna Award imposed by Nazi Germany and fascist Italy, Romania was compelled to cede north-western Transylvania to Horthy's Hungary.

26. In June 1941, Romania entered the war against the USSR.

27. In August 1944, Romania went over to the side of the Allied Powers and fought against the Axis powers until the end of the war.

28. In March 1945, under Soviet pressure, a communist-dominated Government was imposed on Romania.

29. On 30 December 1947, King Michael I was compelled to abdicate. A Republic was proclaimned and a full communist dictatorship established.

30. In 1948 and 1965, communist-inspired Constitutions were adopted.

31. In 1965, Nicolae Ceaucescu became Secretary-General of the Party and in 1967, Head of State.

32. In 1977, a big strike was staged by the miners of the Jiu Valley.

33. In 1987, the revolt by the workers of Brasov was quelled.

34. From 16 to 22 December 1989, there were widespread popular demonstrations, at Timisoara, then at Bucharest which were brutally put down by the forces of law and order. On 22 December, Nicolae Ceaucescu fled and the Provisional Council of the National Salvation Front took power. The "historical" parties reappeared on the political scene and other parties emerged as well.

35. On 20 May 1990, elections were held for the Constituent Assembly and Ion Iliescu was elected President of the Romanian State.

36. On 8 December 1991, the new Constitution came into force. It had been adopted by Parliament, the Constituent Assembly, on 21 November 1991 and approved by a national referendum.

B. Structure of the State; organization of the legislative and executive powers

37. In accordance with article 1 of the Constitution:

> "1. Romania is a national State, sovereign and independent, unitary and indivisible.
>
> 2. The form of government of the Romanian State is the republic.
>
> 3. Romania is a social and democratic State of law ..."

Article 2 (1) provides that "National sovereignty belongs to the Romanian people who exercise it through their representative bodies and through referendums".

38. Because of Romania's unhappy experience with the one-party system in recent decades, the new Constitution has established special provisions to guarantee a multi-party system. To that end, article 8 (1) of the Constitution provides: "Pluralism is a condition and a guarantee of constitutional democracy in Romanian society".

39. Parliament is the highest representative body of the Romanian people and the sole legislative authority of the country, being made up of the Chamber of Deputies and the Senate (art. 58 (1) and (2)). The Chamber of Deputies and the Senate are elected by universal equal, direct, secret and freely expressed vote for a term of four years, which can be extended by statutory law in case of war or disaster (arts. 59 (1) and 60 (1)).

40. The Chamber of Deputies and the Senate meet in separate sessions and in joint sessions. The two chambers meet in two regular sessions a year and also in extraordinary sessions, at the request of the President of Romania, the permanent bureau of each chamber or at least one-third of the deputies or senators (arts. 62 (1) and 63 (1) and (2)). The Chamber of Deputies and of the Senate adopt laws, decisions and motions, in the presence of a majority of the members. The sessions of the two chambers are public. The chambers can decide to hold certain sessions in camera (arts. 64 and 65).

41. Legislative initiative can be taken by the Government, the deputies, and the senators, as well as at least 250,000 citizens with the right to vote (art. 73 (1)).

42. In accordance with its programme for governing approved by Parliament, the Government ensures the implementation of the domestic and foreign policy of the country and exercises the general management of the public administration (art. 101 (1)).

43. The Prime Minister directs the Government and coordinates the activity of its members, respecting the powers assigned to them (art. 106 (1)). The Government adopts decisions and rulings. Decisions are issued for the purpose of organizing the implementation of laws. Rulings are issued on the basis of a special enabling law, within the limits and in the conditions specified by the law (art. 107 (1), (2) and (3)).

44. The Government and the other organs of public administration, within the framework of the monitoring of their activity by Parliament, must provide the information and documents requested by the Chamber of Deputies, the Senate or the parliamentary commissions, through their chairmen. The members of the Government have access to the proceedings of Parliament; if their presence is requested, their attendance is mandatory (art. 110).

45. The President of Romania acts as a mediator between the powers of the State as well as between the State and society; the President represents the Romanian State and is the guarantor of the country's national independence, unity, and territorial integrity (art. 80). The term of the President is for four years and it begins on the day that he is sworn in (art. 83). No one can serve as President of Romania for more than two terms. These terms can be successive (art. 81 (4)).

C. Organization of the judicial power

46. The fundamental principles for the organization and functioning of the judicial authority are established by the Constitution of Romania:

- The independence of judges (art. 123);
- The irremovability of judges (art. 124 (1));
- The incompatibility of the position of judge with any other public or private position, with the exception of teaching positions in higher education (art. 124 (2));
- The prohibition of the establishment of extraordinary courts (art. 125 (2));
- The role of the Prosecutor's Department which represents the general interests of society and defends the legal order as well as the rights and freedoms of the citizens in judicial activities (art. 130);
- The status of the prosecutors who carry out their activities on the basis of the principles of legality, impartiality and hierarchical monitoring under the authority of the Minister of Justice (art. 131);
- The incompatibility of the position of judge and prosecutor with membership of a political party (art. 37 (3)).

Most of these principles were not included in the previous legislation and the respective provisions (arts. 124, 125 (2), 130, 131 and 37 (3)) have no counterpart in the Constitutions of the communist era.

D. Respect for human rights in the administration of justice

47. This principle is guaranteed by the Constitution in the following terms:

(a) Equality of rights: "Citizens are equal before the law and before public authorities, with no privileges and with no discrimination" (art. 16 (1));

(b) The supremacy of the law: "No one is above the law" (art. 16 (2);

(c) Free access to justice: "Any person may appeal to the organs of justice for the protection of his legitimate rights, freedoms and interests" (art. 21 (1);

(d) "A person's right to life and to physical and mental well-being are guaranteed. No one shall be subjected to torture or to any kind of inhuman or degrading punishment or treatment. Capital punishment is prohibited" (art. 22 (1), (2) and (3));

(e) Individual freedom: "Individual freedom and personal security are inviolable. The searching, detention or arrest of a person is allowed only in cases specified by law and according to the procedure specified by law" (art. 23 (1) and (2));

(f) The presumption of innocence (art. 23 (8));

(g) The right to defence counsel by a counsel chosen by him or appointed by the court is guaranteed for everyone (arts. 24 and 23 (5));

(h) The right to an interpreter, for citizens belonging to national minorities as well as persons who do not understand or speak the Romanian language (art. 127);

(i) The public nature of the court sessions (art. 126);

(j) The right to contest court decisions (art. 128);

(k) The right of a person who has suffered damage at the hands of a public authority to compensation and the material responsibility of the State for the damages caused by judicial errors occurring in criminal trials (art. 48).

48. The Constitution provides that "justice shall be dispensed by the Supreme Court of Justice and the other bodies established by law" (art. 125). At present, the courts function according to the law on the organization of the judiciary No. 58/1968 which stipulates the following:

1. The civil courts

49. Courts with overall competence, of first instance (first level of jurisdiction).

50. Departmental courts exercise overall competence as courts of appeal or courts of first instance for:

(a) Administrative litigation;

(b) Extremely serious offences: slavery, piracy, murder and other offences having caused death;

(c) Offences against public property (theft, embezzlement, fraud, abuse) if they have had extremely serious consequences;

(d) Offences committed by judges of the courts, the staff of the local prosecution service and by state notaries.

2. Military courts

51. Military courts of major units exercise primary jurisdiction over the following:

(a) Offences committed by military personnel up to the rank of captain;

(b) Offences committed by civilians:

(i) Certain offences against state security;

(ii) Offences against property administered by military units;

(iii) Certain military offences: jeopardizing state secrecy, disclosing certain economic secrets;

(iv) Certain offences against the country's defence capacity, refusal to perform compulsory military service, etc.

(c) Offences committed in the course of their duties by civilian employees of military units.

52. Territorial military courts exercise jurisdiction as appeal courts over the decisions of the military courts of major units, as well as primary jurisdiction over the following:

(a) Offences committed by higher-ranking officers;

(b) Certain extremely serious offences committed by military personnel up to the rank of captain;

(c) Offences committed by civilians:

(i) Offences against the State (treason, hostile acts, espionage, diversion, conspiracy);

(ii) Offences against peace and mankind (propaganda in favour of war, genocide);

(d) Offences committed by the judges of military courts of major units and by the staff of military courts;

(e) Offences against the State committed by the (civilian) judges of the courts, by the staff of the local (civilian courts) and by notaries.

3. The Supreme Court

53. The Supreme Court exercises the following jurisdiction:

(a) Appeal jurisdiction against decisions of primary jurisdiction by the departmental courts, the territorial military courts and by the civil, criminal and military divisions, as appropriate;

(b) Overall supervisory jurisdiction, exercised through special appeal against final decisions;

(c) Primary jurisdiction over the following:

(i) Offences committed by generals, admirals and marshals;

(ii) Offences committed by judges (civilian and military), prosecutors (civil and military) other than those mentioned above;

(iii) Other actions over which it has jurisdiction pursuant to law.

4. The future

54. New legislation for the reorganization of the judicial system is currently being adopted; it provides for:

(a) The restoration of three levels of jurisdiction (primary, remedial and appeal) and the restoration of the courts of appeal which operated in Romania until 1952;

(b) The restriction of the jurisdiction of the military courts solely to offences committed by or against military personnel;

(c) The dissolution of the military division of the Supreme Court; cases which normally came under its jurisdiction will in the future be handled by the criminal division;

(d) The reorganization of the prosecutors into prosecution services attached to the courts.

III. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

A. Judicial, administrative or other authorities with jurisdiction over human rights issues

1. The civil courts

55. The local courts, the departmental courts and the Supreme Court.

2. The military courts

56. The military courts exercise jurisdiction if the offence involving a violation of human rights has been committed by a member of the military or by a civilian employee of a military unit during or in connection with his duties. In addition, in accordance with the current procedural rules, military courts exercise jurisdiction over offences against the State and against peace and mankind - regardless of whether the accused was a member of the military or a civilian when he committed the offence.

3. Authorities with jurisdiction over criminal prosecution

57. (a) In the case of offences that come under the jurisdiction of the civil courts:

The prosecution service exercises overall and exclusive jurisdiction, although only over certain serious offences;

The police forces, under the supervision of the prosecution service.

58. (b) In the case of offences coming within the jurisdiction of the military courts:

The military prosecution service;

The specially appointed officers whose jurisdiction is restricted by law.

4. Administrative and fiscal litigation, breaches of regulations, etc.

59. There are no special courts to deal with administrative and fiscal litigation, breaches of regulations or labour litigation and no juvenile courts. If a person considers that any of his rights has been infringed by an administrative authority he must file a suit with the administrative litigation division of the departmental civil court competent to resolve the dispute.

60. Where breaches of regulations are concerned, it should be emphasized that complaints relating to official reports as well as against the penalties applied are decided either by the administrative body immediately senior to the official who reported the offence, or directly by the local court in cases specifically stipulated by law. An appeal may also be made before the courts against the decision of the administrative body that rules on a complaint relating to a breach of regulations.

61. In the case of labour litigation, the law entitles employees to apply to the courts, and the action comes within the jurisdiction of the civil courts.

62. Cases in which the offenders are minors are heard by specially appointed judges.

5. The Constitutional Court

63. In conformity with and within the six months following the entry into force of the new Constitution (art. 152) the Constiutional Court was established with jurisdiction "to pronounce on the constitionality of laws, before their promulgation" (art. 144) and "to decide on exceptions brought before the courts in regard to the unconstitutionality of laws and rulings (art. 144 (c)).

64. Accordingly, the Constitutional Court also exercises jurisdiction over the regulation, by a specific act or ruling, of certain human rights which are guaranteed by the Constitution. Article 20 of the Constitution will be applied, it provides that "Constitutional provisions on the rights and freedoms of citizens shall be interpreted and applied in accordance with the Universal Declaration of Human Rights, and with the other Covenants and treaties to which Romania is a party". In the case of "lack of conformity between the human rights covenants and treaties to which Romania is a party and domestic law, the international legislation shall have priority".

6. The Ombudsman

65. Another institution which is to be introduced under article 55 of the Constitution is that of the Ombudsman. The stated purpose of the institution of the Ombudsman is "to defend the rights and freedoms of citizens".

B. Remedies available to an individual who claims that his rights have been violated and systems of compensation and rehabilitation available to victims

66. If the injurious act constitutes an offence, the victim may: (a) file a suit with the criminal prosecution body by lodging a complaint in person or by proxy, in writing or orally, to the police or prosecution service (Code of Penal Procedure, art. 222); (b) bring criminal indemnification proceedings to establish the civil liability of the accused and/or of the party that bears civil liability (art. 14).

67. If the act is a breach of regulations, the person whose rights have been infringed may:

(a) request the appropriate administrative body formally to report the breach, and if he fails to obtain satisfaction from the body's decision, bring a suit against it through administrative litigation proceedings;

(b) bring a civil action to compel the offender to make good the damage.

68. Civil liability arising from an offence may be determined and damages granted for the violation of a right, through the civil courts (pursuant to article 998 et seq. of the Civil Code) directly without their being subject to any criminal proceedings or to proceedings to determine and punish the breach of regulations.

69. If the person considers that any of his legally recognized rights have been infringed by an administrative act or by an unjustified refusal by an administrative body to act on his application relating to one of his legally recognized rights, he may bring a suit through the administrative litigation division of the appropriate departmental court to obtain recognition of the right, to have the administrative act in question quashed and/or to obtain redress for the injury suffered.

70. If the person's rights have been injured by acts or measures relating to criminal proceedings, he may file a complaint with the prosecutor. The prosecutor is required to settle the complaint within 20 days of its submission, and to inform the person of his decision, as well as of the means by which the complaint has been settled (Code of Penal Procedure, arts. 275-277).

71. In accordance with the amendments made to the Code of Penal Procedure by Act No. 32/1990, if an arrested person contests the lawfulness of the measures taken against him (by which he has been arrested or his freedom has been restricted), he may lodge a complaint with the judge. If the competent court finds that the act is unlawful, the person who has been arbitrarily arrested is entitled to redress for the injury suffered (Code of Penal Procedure, art. 5).

72. In the case of a judicial error, anyone who has been finally convicted shall be entitled to compensation from the State for the damages sustained, if, following the re-trial of the case, it is established under a final decision that the person has not committed the act attributed to him or that the act in question was non-existent (Code of Penal Procedure, art. 50 (1). In order to obtain redress for the damages sustained, the person concerned must bring proceedings before the departmental court of his place of residence and the State shall appear as a defendant in the case (art. 506).

73. In all cases, the amount of compensation for the injury shall be decided in accordance with the law. Accordingly, even if the criminal indemnity action is decided in a criminal case, financial compensation may be awarded, including compensation for "loss of earnings" (Code of Penal Procedure, art. 14, last para.). The category of damages sustained for which persons are entitled to compensation also includes the cost of treatment to restore health and capacity for work.

74. Regardless of the right to financial compensation, anyone who at the time of his arrest was in employment is also entitled to have the period of his arrest counted as part of his period of continuous employment (Code of Penal Procedure, art. 504 (4)); this is extremely important, particularly for the calculation of certain salary entitlements, sickness benefits and pensions, under the present social security system.

C. Protection of the rights referred to in the various human rights instruments and possible derogations from them

75. The human rights covered by the International Covenant on Civil and Political Rights, as well as by the other United Nations conventions to which Romania is a party, and by the documents relating to the human dimension of the Conference on Security and Cooperation in Europe, which have been accepted by Romania, and by the Convention for the Protection of Human Rights and Fundamental Freedoms (to which Romania wishes to accede as soon as possible) are specifically regulated by the new Romanian Constitution. They are set out in Title II, Chapter II, which is devoted entirely to fundamental rights and freedoms (arts. 22-48).

76. Such derogations as are provided for by the Romanian Constitution are the same as those referred to by the international instruments; possible restrictions on the exercise of certain rights or freedoms are specified in article 49, which reads:

> "1. The exercise of certain rights or freedoms may be restricted only by law and only if this is necessary depending on the circumstances, in order to defend national security, public order, health or public morals, the rights and freedoms of citizens; to investigate a crime; to prevent the consequences of a natural disaster or a particularly severe catastrophe.
>
> 2. The restriction must be in proportion to the situation that caused it and it may not impinge on the existence of justice or freedom".

D. Way in which human rights instruments are made part of the national legal system

77. The relationship between international and national law is governed by article 11 of the Constitution:

> "1. The Romanian State undertakes to discharge, fully and in good faith, its obligations under the treaties to which it is a party.
>
> 2. The treaties ratified by Parliament, in accordance with the law, are part of domestic law".

The provision contained in paragraph 2 is new and is intended to solve the dilemma that arose in the past over the hierarchy of national or international sources of law.

78. As far as the international instruments relating to human rights are concerned, the Constitution establishes the principle of their primacy whenever there is non-conformity between the covenants and treaties to which Romania is a party and its domestic law. Accordingly, article 20 states:

> "1. Constitutional provisions on the rights and freedoms of citizens shall be interpreted and applied in accordance with the Unviersal Declaration of Human Rights, and with the other covenants and treaties to which Romania is a party.

2. In the case of non-conformity between the human rights covenants and treaties to which Romania is a party and domestic law, the international legislation shall have priority".

79. Depending on the area of the international legislation, it may also be incorporated in domestic law by means of a special act. This solution was adopted by the Romanian Parliament in 1990, after Romania's accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in New York on 10 December 1984. The fact that at the time the Constitution had not yet been adopted was not the only reason. Consideration was also given to the question of punishment for acts which, under the Convention, constitute torture. It was felt that there was a need to prescribe heavier sentences in accordance with the objectives of the Convention. Accordingly, Act No. 20 of 9 November 1990 introduced into the Penal Code the offence of torture, which carries a sentence of from two to seven years' or even life imprisonment if the torture has caused the death of the victim.

80. In accordance with the provisions of the Convention on the Rights of the Child, to which Romania acceded on 27 October 1990, Romanian legislation will be completed by measures to implement the rights recognized by articles 12 to 19 of the Convention.

81. Similarly, pursuant to Act No. 46 of 4 July 1991 concerning Romania's accession to the Convention relating to the Status of Refugees and its Protocol, a bill on the regulation of the procedure for granting refugee status and for issuing identity documents to refugees lawfully on Romanian territory has been brought before Parliament.

E. Can the provisions of the human rights instruments be invoked directly or must they be transformed into internal laws in order to be enforced by the authorities concerned?

82. The terms of article 11 (2) of the Constitution, pursuant to which "The treaties ratified by Parliament, according to the law, are part of domestic law" mean that the provisions of those international instruments to which Romania is a party may be invoked directly before the courts and administrative authorities. However, domestic law must be taken into account whenever the treaty itself refers to domestic law or whenever the provisions of the treaty do not establish the procedures for its implementation (see para. 77).

F. Institutions or national machinery with responsibility for overseeing the implementation of human rights

83. The replies to the foregoing questions show that the Constitution designates several categories of national institutions and public authorities as having responsibility for overseeing the implementation of human rights:

(a) The Constitutional Court, in connecton with monitoring the constitutionality of laws;

(b) The Ombudsman, whose responsibilities relate exclusively to the protection of human rights;

(c) The Prosecutor's Department whose role is to represent the general interest of sociaty and to defend the rights and freedoms of citizens before the courts so that anyone guilty of an offence which violates another person's rights is punished;

(d) There are also numerous national non-governmental organizations including the League of Human Rights, the Association for the Defence of Human Rights, the Romanian Helsinki Committee and the Romanian Amnesty International Committee.

IV. INFORMATION AND PUBLICITY

84. In order to familiarize both the general public and the authorities responsible for their implementation with the rights contained in the various human rights instruments, the international covenants and conventions, as well as domestic legislation are published and distributed.

85. The following have been published in the Monitoral Oficial of Romania:

(a) The Convention against Torture (a translation of the full text), ratified by Act No. 19/19, of 19 October 1990;

(b) Act No. 20, of 9 October 1990, establishing the offence of torture in the Romanian Penal Code;

(c) Act No. 32, of 16 November 1990 amending and completing the Code of Criminal Procedure (specifically relating to the guarantee of individual freedom and the right to a defence);

(d) The Convention on the Rights of the Child, which entered into force in Romania on 28 October 1990;

(e) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of capital punishment, ratified by Act No. 7 of 25 January 1991;

(f) The Convention and Protocol relating to the Status of Refugees, to which Romania acceded by Act No. 46, of 4 July 1991;

(g) The Charter of Paris for a New Europe and the 1991 Vienna Document;

(h) The Statutes of the Hague Conference on Private International Law, accepted by Romania in Act No. 25, of 6 March 1991;

(i) The Convention on the Recovery Abroad of Maintenance, to which Romania acceded through Act No. 26, of 6 March 1991.

86. The Constitution was published in draft form and submitted for public debate in the press, on radio and television. After its adoption by the Constitutive Assembly it was published in the Monitoral Oficial

of 21 November 1991 and as a brochure in order to enable the population to participate in the referendum organized on 8 December 1991 in an informed manner.

87. It should also be mentioned that the Romanian Human Rights Institute was established at the beginning of 1991 in order to "foster a better awareness on the part of Romanian public bodies, non-governmental organizations and private citizens of human rights problems, as well as of the manner in which human rights are guaranteed in other countries" (Act No. 9 of 29 January 1991, art. 2)

88. It has also been decided to publish a human rights bulletin, which would be widely distributed. However, the rise in the price of paper and printing costs are factors inhibiting its publication.

89. On 1 October 1991, the Government of Romania decided to establish the Centre for European Studies of Ethnic Problems (CEEPE) as an institute of the Romanian Academy. Pursuant to its constituent instrument, CEEPE's objective is to study various issues relating to Europe's ethnic, linguistic or religious groups, their evolution and communications between them, as well as to promote common standards relating to the rights of persons belonging to ethnic, religious or linguistic minorities and the preservation of their identity.

90. It has been proposed that the Monitoral Oficial should publish the United Nations instruments to which Romania acceded almost 20 years ago, such as the International Covenant on Civil and Political Rights or the International Convention on the Elimination of All Forms of Racial Discrimination, the details of which are not familiar to the Romanian public.

91. Similar efforts are also being made by the press, which has published a number of extracts from the Universal Declaration of Human Rights.

92. The periodic reports on the implementation of international covenants and conventions are drafted by groups of experts from the human rights units and divisions set up in 1991 within the Ministry of Foreign Affairs, the Ministry of the Interior and the Ministry of Justice, assisted by specialists from the research and documentation departments of the Supreme Court and the prosecution service. As a rule, these agencies do not encounter obstacles in collecting the information required from throughout Romania.

93. During the 1990-1991 period, the transmission of reports to the Centre for Human Rights in Geneva was held up in order to enable comprehensive documents based on the new Constitution to be prepared. When the reports have been finalized, they will be issued to the national bodies to whom they are of interest and public debates will be organized through the press, in meetings of experts, symposia and lectures in Bucharest and other towns.

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I. LAND AND PEOPLE

1. The Republic of Panama, which has been an independent nation since 1903, is located on the isthmus of Panama at a latitude between 7° and 10° north and a longitude between 78° and 83° west. It is bounded to the north by the Caribbean Sea, to the south by the Pacific Ocean, to the east by the Republic of Colombia and to the west by the Republic of Costa Rica.

2. The total land area is 75,519 km^2 and the population, according to the last national population and housing census, taken in May 1990, was 2,329,329. The population is composed of heterogenous ethnic, cultural and linguistic groups.

3. Article 35 of the National Constitution, adopted in 1972 and amended in 1978 and 1983, provides that: "The profession of all religions is free, as is the practice of all forms of worship, without any limitation other than respect for Christian morality and public order. It is recognized that the Catholic religion is that of the majority of Panamanians".

II. SOCIO-ECONOMIC INDICATORS

4. An updated set of socio-economic indicators for the period 1990-1991 is given below:

Per capita income	US$	2 120
Gross national product		9.3%
Inflation rate		3.3%
Foreign debt		4 937.5 million
Unemployment rate		20.4%
Literacy rate		11.8%
Life expectancy		72.1 years
Infant mortality rate		22.9%
Maternal mortality rate		3.6%
Fertility rate		3.1%
Population under 15 years of age		47.1%
Population over 65 years of age		47%
Population in rural areas		46%
Population in urban areas		54%
Percentage of heads of household who are women		22 women per 100 households

5. The economic indicators point towards steady growth of the Panamanian economy as a result of the reactivation of key sectors such as construction and exports of goods and services, together with a significant increase in private consumption, as reflected in the 25.7 per cent and 14.8 per cent increases in retail and wholesale trade, respectively.

6. In addition, the noticeable increase in population between 1911 and 1990 (see annex 1) is attributable mainly to the high birth rates and low mortality rates recorded as a result of the public health care provided.

III. GENERAL POLITICAL STRUCTURE

7. Title I of the Constitution of the Republic of Panama determines how the Panamanian State is organized.

> "Article 1: The Panamanian nation is organized as a sovereign and independent State and its name is the Republic of Panama. Its Government is unitary, republican, democratic and representative.
>
> Article 2: Public power emanates from the people alone. It is exercised by the Government in accordance with the Constitution, through the legislative, executive and judicial branches.
>
> Article 5: The territory of the Panamanian State is divided politically into provinces, which in turn are subdivided into municipal districts and the municipal districts into electoral districts ('corregimientos').
>
> The law may create other political divisions either in order to make them subject to special regulations or for administrative convenience or as a public service."

8. The national territory also includes the San Blas region which was created by Act No. 2 of 1938 and consists of the mainland area along, and the islands off, the coast of the Caribbean Sea. The Emberá de Darién region was established by Act No. 22 of 8 November 1983 delimiting the boundaries of the districts of Chepigana and Pinogana in Darién Province.

A. The Executive Power

9. According to the provisions of the National Constitution, the executive power is composed of the President of the Republic and the Ministers of State (title VI, chap. I, art. 170).

10. The executive power has two broad areas of responsibility: the central Government and the decentralized institutions. The central Government consists of the Office of the President of the Republic, the Council of Ministers, the General Council of State, the executive advisory commissions and the 12 ministries. It formulates overall public policy and decides how it is to be implemented. The decentralized institutions consist of all the autonomous and semi-autonomous public institutions that are responsible for performing Government functions and implementing Government programmes in accordance with the policies the Government adopts.

B. The Legislative Power

11. The main activity of the legislative power is the enactment of the necessary laws for the achievement of the objectives and performance of the functions of the Government as referred to in the Constitution of the Republic.

12. In this connection, article 140 of the Constitution provides:

"The legislative power shall consist of a body called the Legislative Assembly whose members shall be nominated by a party and who shall be elected by a direct popular vote, as established by the Constitution."

13. At present the Legislative Assembly is composed of 67 legislators, who are elected for a period of five years and who act in the interests of the nation. They represent their own electors and their respective political parties in the Assembly. The breakdown of legislators by political party is as follows:

(a)	Christian Democrat Party	28 seats
(b)	Republican Liberal Movement	15 seats
(c)	Authentic Liberal Party	6 seats
(d)	Arnulfo Arias Party	6 seats
(e)	Democratic Revolutionary Party	10 seats
(f)	Labour Party	1 seat

14. The governing body of the Legislative Assembly is composed of the president, the first vice-president, the second vice-president and the secretary. There are also 15 standing committees composed of nine members each. Each committee consists of a president, a vice-president and a secretary, elected from among the members of each committee by a majority of votes.

C. The Judicial Power

15. In accordance with the Constitution, the Panamanian judiciary is one of the three powers of the State. Since the establishment of the Republic of Panama as a sovereign and independent State, the Constitution has contained a section on the administration of justice by the judiciary.

16. The 1972 Political Constitution of the Republic of Panama, as amended by the 1978 Amendment Acts and the 1983 Constitutional Act, provides for the division of the administration of justice, in title VII, chapters I and II.

17. Article 199 of the Political Constitution reads:

"The judicial power shall consist of the Supreme Court of Justice and such courts and tribunals as the law may establish".

Subsidiary judicial bodies

18. The Public Prosecutor's Department assists in the administration of justice and in conformity with the principles of the Constitution, serves

to represent the interests of society. In this connection, title VII, chapter II, on the administration of justice reads:

> "Article 216: The duties of the Public Prosecutor's Department shall be performed by the Attorney-General of the Nation, the Procurator for Administration, the prosecutors and solicitors and any other officials appointed by law. The duties of the Attorney-General of the Nation may be delegated, as provided for by law, to officials of the Public Prosecutor's Department."

IV. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

A. Judicial and administrative authorities with jurisdiction affecting human rights

19. Generally speaking, the scope of human rights is so broad that all the national authorities of the Republic of Panama may be said to be involved in some way in the protection of fundamental human rights. "The authorities of the Republic are established in order to protect the life, honour and property of nationals, wherever they may be, and of any foreigners under their jurisdiction; to guarantee the effectiveness of individual and social rights and duties; and to give effect to and enforce the Constitution and the law".

20. However, it is obvious that, within this system, the judiciary as a whole (the Supreme Court of Justice, the judicial district superior courts and circuit and municipal courts), the public Prosecutor's Department and the Ministry of the Interior and Justice have greater responsibility because their constitutional and legal functions are closely linked with the protection of the human rights of nationals or foreigners who are resident or temporarily in the national territory.

21. With regard to jurisdiction, Act No. 19 was adopted on 9 July 1991 Article 11 establishes that administrative proceedings for the protection of human rights come under the jurisdiction of the third division of the Supreme Court of Justice.

B. Remedies available to persons who claim that their rights have been violated and systems of compensation and rehabilitation

22. There is a wide range of constitutional and legal proceedings, motions and remedies available to safeguard human rights.

23. At the constitutional level, there are established guarantees such as the remedy of habeas corpus which protects personal freedom (art. 23 of the Political Constitution); proceedings for the protection of constitutional safeguards against orders which are issued by any public servant and which violate subjective rights (art. 50); and the action and claim of unconstitutionality which any person or party to a proceeding may bring before the Supreme Court of Justice to challenge, on grounds of substance or form, the constitutionality of Government laws, decrees, agreements, decisions and acts for the purpose of having them repealed (art. 203).

24. In criminal, civil, administrative, labour, commercial and administrative policing matters, the law provides for a number of proceedings, motions and remedies whose exercise is fully regulated by ordinary law. These include the motions of objection during the investigation stage of criminal proceeding, motions of nullity, appeals for reconsideration, remedies of appeal and appeals for dismissal and for review.

25. With regard to the systems of compensation and rehabilitation, article 1645 of the Civil Code provides that the State is jointly responsible for any damages caused as a result of fault or negligence on the part of public servants if it acted through a particular official. Article 129 of the Penal Code also provides that the State is liable to pay civil compensation when an accused person obtains dismissal after having been held in pre-trial detention for more than one year. In general terms, moreover, the provisions of Judicial Code make it possible for proceedings to be brought against the Nation and the autonomous and semi-autonomous institutions to obtain compensation for loss or injury suffered by persons whose rights have been violated, if such loss or injury was caused by public servants.

26. With regard to rehabilitation, article 28 of the Constitution provides that the prison system is based on the principles of security, rehabilitation and protection of society and it prohibits the use of methods that are harmful to the physical and moral integrity of detainees. It also provides for the training of detainees in jobs that will enable them to become useful members of society.

C. Protection of human rights referred to in the various human rights instruments

27. To begin with, the fundamental human rights recognized in the Political Constitution may be denied only by means of the provisions of title III, article 308, amendments to the Constitution. This is a rigid system according to which amendments are made by:

(a) A legislative act adopted in three debates by the Legislative Assembly in more than one session of the legislature;

(b) A legislative act adopted in three debates by the Legislative Assembly, in one session of the legislature, but submitted to a popular referendum.

28. Under the Constitution, the human rights referred to in international declarations, conventions and protocols have the force of formal law because they have to be ratified by the Legislative Assembly; they may thus be repealed by Panama's legislative body through the exercise of its legislative functions.

D. Way in which human rights instruments are made part of the national legal system

29. As explained in the preceding paragraph, human rights instruments are incorporated into the national legal system on approval, by the Legislative Assembly of international treaties and conventions concluded by the executive

power through a formal law (art. 153, para. 3, of the Constitution). They nevertheless continue to be rules of international law which are binding on the Republic of Panama (art. 4 of the Political Constitution).

E. Can the provisions of the human rights instruments be invoked before, or directly enforced by, the courts or administrative authorities, or must they be transformed into internal laws or administrative regulations in order to be enforced by the authorities concerned?

30. Under the Constitution of Panama, human rights declarations may be invoked before the law courts or before the administrative authorities only after they have been transformed into internal law through approval by the Legislative Assembly of the international treaties and conventions which contain them and which have been concluded by the executive power.

F. National institution or body for monitoring the implementation of human rights

31. In principle, both the Public Prosecutor's Department and the judiciary must ensure the protection of human rights in accordance with the Constitution and the laws. In addition to these institutions and other authorities of the Republic, non-governmental organizations such as the Panamanian Committee for Human Rights, and the Catholic Church monitor the implementation of human rights in Panama.

ANNEX

TABLE 1: POPULATION OF THE REPUBLIC BY PROVINCE: CENSUSES FROM 1911 TO 1990

	Total	Bocas del Toro	Coclé	Colón (1)	Chiriquí	Darién	Herrera	Los Santos	Panamá	Veraguas
POPULATION										
1911	336,742	22,732	35,011	32,092	63,364	8,992	23,007	30,075	61,855	59,614
1920	446,098	27,239	45,151	58,250	76,470	10,728	28,984	34,638	98,035	66,603
1930	467,459	15,851	48,244	57,161	76,918	13,391	31,030	41,218	114,103	69,543
1940	622,576	16,523	55,737	78,119	111,206	14,930	38,118	49,621	173,328	84,994
1950	805,285	22,392	73,103	90,144	138,136	14,660	50,095	61,422	248,335	106,998
1960	1,075,541	32,600	93,156	105,416	188,350	19,715	61,672	70,554	372,393	131,685
1970	1,428,082	43,531	118,003	134,286	236,154	22,685	72,549	72,380	576,645	151,849
1980 (a)	1,805,287	53,487	140,903	162,454	287,350	26,524	81,963	70,261	809,100	173,245
1990 (a)	2,329,329	93,361	173,190	202,338	370,227	43,832	93,681	76,947	1,072,127	203,626
ANNUAL GROWTH RATE (per 100 inhabitants)										
1911										
	3.17	2.03	2.86	6.85	2.11	1.98	2.60	1.58	5.25	1.24
1920										
	0.47	-5.57	0.66	-0.19	0.06	2.25	0.68	1.76	1.63	0.43
1930										
	2.76	0.39	1.38	3.01	3.56	1.04	1.97	1.78	4.05	1.92
1940										
	2.56	3.02	2.69	1.41	2.15	-0.18	2.71	2.11	3.59	2.28
1950										
	2.94	3.83	2.45	1.58	3.15	3.01	2.10	1.40	4.14	2.10
1960										
	3.06	3.12	2.54	2.60	2.43	1.50	1.74	0.27	4.76	1.52
1970										
	2.37	2.08	1.79	1.92	1.98	1.58	1.23	-0.30	3.44	1.33
1980										
	2.58	5.73	2.08	2.22	2.57	5.15	1.34	0.91	2.85	1.63
1990										

(1) The population of the San Blas region is included for purposes of comparison.

(a) Excluding the civilian and military population residing in areas under United States military control in the provinces of Panama and Colon.